

STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNFAIR LABOR PRACTICE CHARGE NO. 32-88

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|------------------------------|---|-------|
| LIVINGSTON EDUCATION |) | |
| ASSOCIATION, MEA/NEA, |) | |
| |) | |
| Complainant, |) | |
| vs. |) | ORDER |
| |) | |
| LIVINGSTON SCHOOL DISTRICT |) | |
| NO. 4 AND NO. 1, LIVINGSTON, |) | |
| MONTANA, |) | |
| |) | |
| Defendant. |) | |

* * * * *

On November 17, 1989, the Complainant, Livingston Education Association, MEA/NEA (the Association) filed an unfair labor practice charge with this Board alleging the Defendant, Livingston School District No. 4 and No. 1, Livingston, Montana (the District) had violated Sections 39-31-401(1) and (5) MCA. More specifically, the Association charged that the District had not bargained in good faith, lacked authority to bargain, was unprepared to bargain, and engaged in surface bargaining.

On December 28, 1989, a pre-hearing conference was held in the matter at which time the District gave verbal notice of its intentions of filing a Motion to Dismiss. On January 5, 1990, the District filed its Motion to Dismiss with this Board arguing the unfair labor practice charges were moot. Objections to the Motion to Dismiss were filed by the Association. A briefing schedule followed.

The Motion to Dismiss is hereby granted. The charges as filed by the Association are moot and further litigation of resolved matters is contrary to public policy and the intent of the Collective Bargaining Act for Public Employees.

The circumstances of this present matter are similar to those addressed by the Montana Supreme Court in Missoula County School District No. 7 v. Lolo Classified Association et.al. No.

1 89-142 December 12, 1989 (ULP 29-86). In this present matter,
2 the Association filed Section 39-31-401(1) and (5) violations
3 alleging the District had not bargained in good faith in
4 negotiating a successor agreement. A successor agreement,
5 however, was executed by the Parties on September 12, 1989.
6 Likewise, in Missoula County School District No. 7, supra,
7 Section 39-31-401(1) and (5) violations were alleged. The
8 Complainant, Lolo Classified Association, MEA/NEA, alleged that
9 the Defendant, Missoula County School District No. 7, had made
10 unilateral changes to working conditions and, therefore, had not
11 bargained in good faith. The Supreme Court found, however, the
12 Parties had resolved the issue subsequent to the filing of the
13 unfair labor practice charge and concluded, "It appearing that
14 such collective bargaining agreement disposes of the issues
15 involved in this case, making the same moot."

16 Unfair Labor Practice Charge No. 32-88 is hereby dismissed.

17 Dated this 12th day of March, 1990.

18 BOARD OF PERSONNEL APPEALS

19 BY: Stan Gerke

20 STAN GERKE
21 Hearing Examiner

22 * * * * *

23 CERTIFICATE OF MAILING

24 I Emilie Loring do
25 certify that a true and correct copy of this document was mailed
26 to the following on the 13th day of March, 1990:

26 Emilie Loring
27 Hilley and Loring
28 500 Daly Avenue
29 Missoula, MT 59801

30 Rick D'Hooge
31 Montana School Boards Association
32 1 South Montana Avenue
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SD279.1